THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10123 of 2006

ORDER:

This writ petition is filed seeking Certiorari to call for the records relating to the order passed by the first respondent in Revision Petition No.2/2005, wherein the order passed by the second respondent confirming the cancellation of authorisation of the petitioner, was confirmed.

According to the petitioner, he was a fair price shop dealer of Repaka village, Regonda mandal, Warangal district. It seems, on the basis of some newspaper reports in Vaartha Telugu daily published on 8.2.2003, an enquiry was taken up against the petitioner and a show cause notice dated 18.3.2003 was issued asking the petitioner to explain as to why his authorisation should not be cancelled for contravention of conditions 4(i)(ii) and 11 of A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973. The main charge against the petitioner was that he had distributed the goods with some delay. He received the goods on 31.1.2003, and distributed the same on 17.2.2003 and had also collected higher rates for kerosene. The petitioner submitted his explanation to the show cause notice dated 18.3.2003. However, the third respondent passed orders dated 17.11.2003 cancelling the authorisation of the petitioner on the ground that the petitioner has not submitted certain registers though notice was issued to him, therefore, it was construed that the petitioner has contravened the provisions of authorisation. The impugned order was passed merely on the report of the Mandal Revenue Officer, Regonda stating that the petitioner has lifted the stocks on 31.1.2003 and did not distribute the same till 17.2.2003. Aggrieved by the same, petitioner carried the matter in appeal to the second respondent-Joint Collector and the second

respondent by order dated 26.10.2004 confirmed the orders passed by the third respondent dated 17.11.2003. Aggrieved by the same, petitioner further carried the matter in revision to the first respondent-District Collector. The first respondent also by order dated 3.8.2005 confirmed the orders passed by the Joint Collector dated 26.10.2004. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner contended that the whole basis for initiation of the proceedings against the petitioner was some newspaper reports published in Vaartha Telugu daily and absolutely there is no truth in the said reports and even no complaint has ever been made against the petitioner by any of the cardholders. As per the order of the third respondent, it can be seen that there is some delay in distributing the essential commodities to the cardholders and except this, nothing is made out. He further contends that the mother of the petitioner died on 2.2.2003 and in this regard, he filed a Death Certificate issued by the Panchayat Secretary Parkal Gram Panchayat, therefore, some delay was caused in disbursing the goods, but unfortunately this was not pleaded by the petitioner in view of his ignorance. The learned counsel further contends that assuming that there was some delay in distribution of goods, the impugned order cancelling the authorisation of the petitioner is unwarranted in the facts and circumstances of the case.

The learned Government Pleader appearing for respondents contended that the petitioner has submitted his explanation to the show cause notice and when a further opportunity was given asking the petitioner to produce the records, he failed to produce the same, therefore the authorities have assumed that the petitioner has contravened the conditions of authorisation, which cannot be said to be either arbitrary or illegal. The impugned order passed by the third respondent does not suffer from any legal infirmity warranting interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made on either side and perused the impugned orders and other material made available on record.

It is noticed from the show cause notice dated 18.3.2003 that on the basis of newspaper reports published in Vaartha Telugu daily on 8.2.2003 and on the basis of the report of the Mandal Revenue Officer dated 20.2.2003, the authorisation of the petitioner was canceled. The whole of the show cause notice and the order passed by the primary authority reveals that at the most there was some delay in distribution of commodities to the cardholders, but absolutely there is no other evidence to show that the kerosene was sold @ Rs.12/- instead of Rs.9-50 per litre, nor the petitioner has contravened any of the conditions of authorisation. The impugned order was passed on the basis of newspaper reports and on the basis of report of the Mandal Revenue Officer, who conducted an open enquiry in the village without there being any specific allegation against the petitioner by a particular person.

In view of the above, I am of the opinion that the impugned order passed by the primary authority as confirmed by the appellate authority and further confirmed by the revisional authority are in gross violation of principles of natural justice and is contrary to the procedure required for passing quasi judicial proceedings of this nature, therefore the same are liable to be set aside.

However, there were some lapses on the part of the petitioner in distributing the commodities to the cardholders and also in not producing the records before the authorities concerned, may be, due to the death of his mother, therefore, the period from the date of cancellation of authorisation of the petitioner till date shall be treated as suspension as a measure of punishment.

In the result, the writ petition is allowed and the impugned order

passed by the third respondent dated 17.11.2003 as confirmed by the Respondents 1 and 2 by orders dated 3.8.2005 and 26.10.2004 respectively are set aside. The respondents are directed to restore the authorisation of the petitioner forthwith. No order as to costs.

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C.V.RAMULU, J

Date: 27.9.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10123 of 2006

27.9.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10123 of 2006

Date: 27th September, 2006

Between:

Chilukumari Uppalaiah

.. Petitioner

And

The District Collector,
Warangal, Warangal district & others.

.. Respondents